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11 Attorneys for Defendant
12 COMARCO WIRELESS TECHNOLOGIES, INC.

13 [Additional Counsel for the Parties identified on last page]

14
15 UNITED STATES DISTRICT COURT
16 FOR THE NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 ACCO BRANDS USA LLC,

Case No. C11-4378 RS

19 Plaintiff,

**STIPULATION AND REQUEST FOR
ORDER MODIFYING SCHEDULING
ORDER; [PROPOSED] ORDER
MODIFYING SCHEDULE ORDER**

20 v.

21 COMARCO WIRELESS TECHNOLOGIES,
INC.,

22 Defendant.
23

1 **STIPULATION AND REQUEST FOR ORDER MODIFYING SCHEDULING ORDER**

2 Plaintiff ACCO Brands USA LLC and Defendant Comarco Wireless Technologies, Inc.,
 3 through their undersigned counsel, stipulate and respectfully request as follows:

4 1. WHEREAS, on April 3, 2012, the Court entered an Amended Case Management
 5 Scheduling Order (Dkt. Entry No. 28) (the “Order”), in which the Court set forth the case
 6 schedule;

7 2. WHEREAS, on April 16, 2013, the Court entered an order vacating the then-
 8 pending April 18, 2013 Further Case Management Conference and, furthermore, setting a Further
 9 Case Management Conference for August 15, 2013 (*see* Dkt. Entry No. 51);

10 3. WHEREAS, while the parties have engaged in settlement discussions throughout
 11 the course of this action, such discussions resumed in earnest in April and May of this year and
 12 have involved the devoted attention of key party executives and their respective lead trial counsel;

13 4. WHEREAS, on June 10, 2013, because of the aforesaid good faith settlement
 14 discussions and the desire to focus resources on those efforts, the parties respectfully submitted a
 15 stipulation in which the parties requested that the Court modify two dates in the case schedule (*see*
 16 Dkt. Entry No. 52);¹

17 5. WHEREAS, also on June 10, 2013, the Court granted the parties’ stipulation (*see*
 18 Dkt. Entry No. 53);

19 6. WHEREAS, the parties’ have continued their good faith settlement discussions
 20 and, moreover, are now negotiating a term sheet that establishes a framework for the full
 21 settlement of this action;

22 7. WHEREAS, the parties respectfully believe that continued focus on their
 23 settlement efforts and term sheet will jeopardize adequate preparations (*e.g.*, completion of fact
 24 discovery, expert discovery, preparing dispositive motions) for the January 2014 trial set by the

25
 26 1 Specifically, the parties respectfully requested that that Court continue (i) the
 27 September 26, 2013 deadline for hearing dispositive motions to October 17, 2013 and (ii) the
 28 November 21, 2013 deadline for hearing pretrial motions to December 12, 2013. The parties’
 June 10 stipulation did not seek to (and the Court’s June 10 order did not) continue or otherwise
 modify the January 27, 2014 trial date.

Order;²

8. WHEREAS, the parties do not wish to delay the trial of this action, but do wish to be given the opportunity to continue to focus on trying to settle it while not jeopardizing trial preparations (if such were to become necessary);

9. WHEREAS, the parties believe that, in all events, they will know no later than August 8, 2013 (*i.e.*, the date by which they must file their Case Management Conference Statement in anticipation of the August 15, 2013 Further Case Management Conference) whether a settlement will be reached;

10. ACCORDINGLY, the parties STIPULATE and respectfully request that the Court vacate the current case schedule entirely and require the parties to (i) immediately notify the Court if a settlement is reached or (ii) if a settlement is not reached, to include in their forthcoming August 8, 2013 Case Management Conference Statement an accelerated case schedule that would require the trial of this action to commence no later than six months after the originally set January 27, 2014 trial date (so long as such date is acceptable to the Court).

DATED: June 27, 2013

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

By: /s/Scott E. Kolassa
SCOTT E. KOLASSA

Attorneys for Plaintiff
ACCO BRANDS USA LLC

² While the parties recognize it is possible to devote resources to settlement efforts, on the one hand, and pre-trial preparations, on the other hand, at the same time (*i.e.*, company personnel and outside counsel devoted to settlement efforts, while still others are devoted to pre-trial litigation matters), they respectfully believe that such “dual tracking” would waste not only the resources of the parties but also those of the Court (*e.g.*, evaluating and ruling on potentially unnecessary dispositive and pretrial motions).

1 DATED: June 27, 2013

PILLSBURY WINTHROP SHAW PITTMAN LLP

3 By: /s/Colin T. Kemp
4 COLIN T. KEMP

5 Attorneys for Defendant
6 COMARCO WIRELESS TECHNOLOGIES, INC.

7 **GENERAL ORDER 45 ATTESTATION**

8 In compliance with General Order 45, X.B., I hereby attest that Mr. Kemp has concurred in
9 this filing.

10 Dated: June 27, 2013

11 By: /s/Scott E. Kolassa
SCOTT E. KOLASSA

12 Attorneys for Plaintiff
13 ACCO BRANDS USA LLC

1 **[PROPOSED] ORDER MODIFYING SCHEDULING ORDER**

2 Pursuant to the foregoing stipulation, and good cause appearing therefore, it is ORDERED
3 THAT:

4 1. The current case schedule, set forth in Docket Entry No. 28 (as modified in part by
5 Docket Entry No. 53), is hereby VACATED;

6 2. The parties are ORDERED to immediately notify the Court of any settlement
7 reached in this action;

8 3. If no settlement is reached before August 8, 2013, then the parties are ORDERED
9 to include in their Case Management Conference Statement (to be filed no later than
10 August 8, 2013) an accelerated case schedule that will include the commencement of the trial of
11 this action no later than six months after the originally set January 27, 2014 trial date.

12 **IT IS SO ORDERED.**

13 DATED: 6/27/13


United States District Judge Richard Seeborg

ADDITIONAL COUNSEL

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